

**Supplemental Specification
2005 Standard Specification Book**

SECTION 01284

PROMPT PAYMENT

Add Section 01284:

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. This section applies only to Federal-Aid Contracts.
- B. Requirements applicable to Contractors, subcontractors, service providers, material suppliers, and all tier subcontractors, service providers, and suppliers.

1.2 PROGRESS PAYMENTS

- A. Include in subcontract, service, or purchase agreement language agreeing to pay promptly as required by this specification.
- B. Pay subcontractors for satisfactory performance of sublet work, no later than 10 working days after receipt of payment by the Department.
 - 1. Enter all subcontractor payments into PDBS Subcontractor Payment Screen within 10 days of receipt of payment by the Department. Date entered should reflect actual date payment was sent to subcontractor.
 - 2. Entry of payments into PDBS will serve as the Prompt Payment Affidavit. Actual date of entry is tied to the date the pay estimate is sent to the Comptroller. If the entry date exceeds 15 days from the Comptroller date the entry will flag red, indicating non-compliance with the Prompt Payment Provision.
- C. Pay Material Suppliers and Service Suppliers within 30 calendar days after receipt of payment for work that includes materials and or services.

1.3 RETAINED MONEY

- A. Include in subcontract, service, or purchase agreement language agreeing to pay retained money for subcontract, service, or purchase agreement upon satisfactory completion of the work and acceptance by the Department.
- B. For purposes of this Section, a subcontractor's work is considered satisfactorily completed when all work included in the subcontract is complete, in accordance with all requirements of the contract, and documented as required by the recipient. When a recipient has partially accepted a portion of the work, that portion of work performed is considered to be satisfactorily completed.
- C. Require written notification from the subcontractor when all subcontract items are complete.
 - 1. Notify the Engineer in writing within two working days after written notification from the subcontractor.
 - 2. The Engineer schedules and coordinates an inspection for acceptance of the work within three working days.
 - 3. Receive notification from the Department in writing when the work is considered to be satisfactorily complete and accepted. Acceptance of the work includes all requirements of the contract and agreement on pay quantities.
 - 4. Upon acceptance of the work, the Department releases an amount equal to the subcontractor's retainage. Submit to the Engineer a certified statement:
 - a. In the form of an affidavit on letterhead, including the signature of a legally responsible official, and the signature of a legally responsible official for the subcontractor, certifying that the total amount due is the total retention.
- D. Pay retained money owed to the subcontractor for satisfactory completion of the accepted work no later than 30 calendar days after receipt of payment from the Department.
- E. A determination of satisfactory completion and payment of retained money does not relieve any contractual obligation.

1.4 DELAY OF PAYMENT

- A. Delay payment only for cause, reason documented in comments portion of subcontractor payment screen will serve as notification to the project office.
 - 1. Send written notification to the subcontractor.

- B. Provide subcontractor 10 working days from date of written notification to correct deficiencies.
 - 1. Release payment upon receipt of documentation demonstrating correction of deficiencies within 10 working days.
- C. Engineer may withhold dollar amount of delayed payment from future estimates.
- D. Include in subcontract, service, and purchase agreements, language providing for the use of appropriate alternative dispute resolution mechanisms to resolve time of payment disputes.
- E. Department may hold disputed funds in escrow until the dispute is resolved.

1.5 LIQUIDATED DAMAGES

- A. Upon determination by the Department of failure to make prompt payment the Engineer will provide written notification to the Contractor. Resolve the failure and make prompt payment within three working days.
- B. Failure to resolve prompt payment results in the assessment of \$250 per each working day, per violation, commencing from the date of the written notification until proof of payment is received.
- C. Proof of payment is defined as providing confirmation from the subcontractor that payment has been received.
- D. Department considers the failure to make prompt payment an indication of a lack of financial fitness. The following additional measures may be imposed as necessary:
 - 1. Forfeit the privilege of bidding on Department projects until payment covered by this Section is made.
 - 2. Forfeit the privilege of having a subcontract, supply or purchase agreement approved to perform work or supply materials on Department projects until payment covered by this Section is made.
- E. Department employs other mechanisms, consistent with this Section and applicable state and local law, so payment is fully and promptly made.

1.6 CONTRACTOR INCENTIVE ENTITLEMENT

- A. Two hundred fifty dollars will be paid to Prime Contractor for each subcontractor provided the following criteria is met:
 - 1. Worked on the project.
 - 2. All prompt payment statements submitted to the project office within five working days after payment to subcontractors.
 - 3. Department received no valid complaints regarding prompt payment.

4. Payment within 30 days after project has reached physical completion.

PART 2	PRODUCTS	Not used
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PART 3	EXECUTION	Not used
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END SECTION